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THE ESSENTIAL COMMODITIES ORDINANCE, 1955

No. 1 OF 1955

Promulgated by the President in the Fifth Year of the Republic of India.

An Ordinance to provide, in the interests of the general public, for the control of the production, supply and distribution of, and trade and commerce in, certain commodities.

WHEREAS the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), which confers powers to control the production, supply and distribution of, and trade and commerce in, certain commodities, expires on the 26th day of January, 1955;

AND WHEREAS it is necessary, in the interests of the general public, to provide for the continuance of such powers in relation to some of the commodities specified in that Act and certain other commodities;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Essential Commodities Ordinance, 1955.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on the 26th day of January, 1955.

2. Definitions.—In this Ordinance, unless the context otherwise requires,—

(a) “essential commodity” means any of the following classes of commodities:—

- (i) coal, including coke and other derivatives;
- (ii) component parts and accessories of automobiles;
- (iii) cotton and woollen textiles;
- (iv) iron and steel, including manufactured products of iron and steel;
- (v) paper, including newsprint, paper board and straw board;
- (vi) petroleum and petroleum products;
- (vii) salt;
- (viii) sugar;
- (ix) vanaspati;
- (x) vegetable oils;

and includes any other class of commodity which the Central Government may, by notified order, declare to be an essential commodity for the purposes of this Ordinance, being a commodity with respect to which Parliament has power to make laws by virtue of entry 33 in List III in the Seventh Schedule to the Constitution;

(b) “notified order” means an order notified in the Official Gazette;

(c) “State Government” in relation to a Part C State means the Lieutenant Governor or the Chief Commissioner, as the case may be.

3. Powers to control production, supply, distribution, etc., of essential commodities.—(1) If the Central Government is of opinion that it is necessary or expedient so to do for maintaining or increasing supplies of any essential commodity or for securing their equitable distribution and availability at fair prices, it may, by order, provide for regulating or prohibiting the production, supply and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential commodity;

(b) for controlling the prices at which any essential commodity may be bought or sold;

(c) for regulating by licences, permits or otherwise the storage, transport, distribution, disposal, acquisition, use or consumption of any essential commodity;

(d) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;

(e) for requiring any person holding in stock any essential commodity to sell the whole or a specified part of the stock to such person or class of persons and in such circumstances as may be specified in the order;

(f) for regulating or prohibiting any class of commercial or financial transactions relating to cotton textiles which, in the opinion of the authority making the order are, or, if unregulated, are likely to be, detrimental to the public interest;

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(h) for requiring persons engaged in the production, supply or distribution of, or trade and commerce in, any essential commodity to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto, as may be specified in the order;

(i) for any incidental and supplementary matters, including in particular the entering, and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) Where any person sells any essential commodity in compliance with an order made with reference to clause (e) of sub-section (2), there shall be paid to him the price therefor as hereinafter provided:—

(a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

(4) If the Central Government is of opinion that it is necessary so to do for maintaining or increasing the production and supply of an essential commodity, it may, by order, authorise any person (hereinafter referred to as an authorised controller) to exercise, with respect to the whole or any part of any such undertaking engaged in the production and supply of the commodity as may be specified in the order such functions of control as may be provided therein and so long as such order is in force with respect to any undertaking or part thereof,—

(a) the authorised controller shall exercise his functions in accordance with any instructions given to him by the Central Government, so however that he shall not have any power to give any direction inconsistent with the provisions of any enactment or any instrument determining the functions of the persons in charge of the management of the undertaking except in so far as may be specifically provided by the order; and

(b) the undertaking or part shall be carried on in accordance with any directions given by the authorised controller under the provisions of the order, and any person having any functions of management in relation to the undertaking or part shall comply with any such directions.

(5) An order made under this section shall,—

(a) in the case of an order of a general nature or affecting a class of persons, be notified in the Official Gazette; and

(b) in the case of an order directed to a specified individual, be served on such individual—

(i) by delivering or tendering it to that individual, or

(ii) if it cannot be so delivered or tendered, by affixing it on the outer door or some other conspicuous part of the premises in which that individual lives, and a written report thereof shall be prepared and witnessed by two persons living in the neighbourhood.

4. Powers to control inter-State trade and commerce in certain other commodities.—(1) This section applies to wheat, raw cotton (whether ginned or unginned), sugar-cane and any other commodity to which the Central Government may, by notified order, declare this section to apply.

(2) If the Central Government is of opinion that it is necessary or expedient so to do for securing the equitable distribution and availability at fair prices of any commodity to which this section applies, it may, by notified order, provide for regulating by licences, permits or otherwise inter-State trade and commerce in any such commodity, and the notified order may prescribe forms and conditions of licences or permits for regulating such trade and commerce, the authorities by which such licences or permits may be granted, the fees that may be charged therefor and any other matter required to render effective the control over such trade and commerce.

5. Imposition of duties on State Governments, etc.—An order made under section 3 or section 4 may confer powers and impose duties upon the Central Government or the State Government or officers and authorities of the Central Government or State Government, and may contain directions to any State Government or to officers and authorities thereof as to the exercise of any such powers or the discharge of any such duties.

6. Delegation of powers.—The Central Government may, by notified order, direct that the power to make orders under section 3 shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by—

(a) such officer or authority subordinate to the Central Government, or

(b) such State Government or such officer or authority subordinate to a State Government, as may be specified in the direction.

7. Effect of orders inconsistent with other enactments.—Any order made under section 3 or section 4 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or any instrument having effect by virtue of any enactment other than this Ordinance.

8. Penalties.—(1) If any person contravenes any order made under this Ordinance,—

(a) he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine:

Provided that if the court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be

recorded, refrain from imposing a sentence of imprisonment; and

(b) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government:

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

(2) If any person to whom a direction is given under sub-section (4) of section 3 fails to comply with the direction he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

9. False statements.—If any person,—

(i) when required by any order under this Ordinance to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true, or

(ii) makes any such statement as aforesaid in any book, account, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

10. Offences by companies.—(1) If the person contravening an order under section 3 or section 4 is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) 'company' means any body corporate, and includes a firm or other association of individuals; and

(b) 'director' in relation to a firm means a partner in the firm.

11. Cognizance of offences.—No court shall take cognizance of any offence punishable under this Ordinance except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (Act XLV of 1860).

12. Special provision regarding fine.—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (Act V of 1898), it shall be lawful for any magistrate of the first class specially empowered by the State Government in this behalf and for any presidency magistrate to pass a sentence of fine exceeding one thousand rupees on any person convicted of contravening any order made under section 3 or section 4.

13. Presumption as to orders.—Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Ordinance, a court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872 (I of 1872).

14. Burden of proof in certain cases.—Where a person is prosecuted for contravening any order under section 3 or section 4 which prohibits him from doing any act or being in possession of a thing without lawful authority or without a permit, licence or other document, the burden of proving that he has such authority, permit, licence or other document shall be on him.

15. Protection of action taken under Ordinance.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order under section 3 or section 4.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order under section 3 or section 4.

16. Savings.—Any order made or deemed to be made under the Essential Supplies (Temporary Powers) Act, 1946 (XXIV of 1946), and in force immediately before the commencement of this Ordinance shall, in so far as such order may be made under this Ordinance, be deemed to be made under this Ordinance and continue in force, and accordingly any appointment made, licence or permit granted or direction issued under any such order and in force immediately before such commencement shall continue in force unless and until it is superseded by any appointment made, licence or permit granted or direction issued under this Ordinance.

RAJENDRA PRASAD,
President.

K. Y. BHANDARKAR,
Secy. to the Govt. of India.